



Docket No. 2112-342.1 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of VEGLIANTE et al.	:	Customer No.
	:	26817
Serial No. 09/970,015	:	Group Art Unit: 3724
Filed: December 20, 2000	:	Examiner: HAMILTON, I.
Title: FILM CUTTER ASSEMBLY	:	Confirmation No. 6443
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF PAUL VEGLIANTE**  
**SUBMITTED UNDER 37 CFR 1.132**

Sir:

I, Paul Vegliante, Executive Vice President of Operations of AEP Industries, Inc. (hereinafter referred to as "AEP"), assignee of the above-referenced application, with offices located at 125 Phillips Avenue, South Hackensack, New Jersey 07606, and an inventor of the above-described patent application, hereby declares as follows:

1. AEP has, since the year 2000, developed, advertised and sold film cutters incorporating the subject matter of the present application.
2. The products are marketed under the trademark SAFETY SLIDE CUTTER, registered in the United States.
3. The commercial products correspond to the invention described and claimed in at least independent claim 1 of this patent application.
4. Approximately 29 million SAFETY SLIDE CUTTER units have been sold to date, starting in the year 2000. When AEP came out with the product in 2000 it was a short time thereafter that Reynolds created an exact duplicate of the SAFETY SLIDE CUTTER blade and

sells this SAFETY SLIDE CUTTER as their entire retail business for slide cutters Reynolds sells approximately 7 million retail rolls annually which include the SAFETY SLIDE CUTTER. Anchor have also made cutters having the design of the SAFETY SLIDE CUTTER. Because the product, as described in the claims of the present application, presents a very novel cling of plastic wrap to the film cutter to enable improved operation, competitors have started selling slide cutters, including the fraction of the SAFETY SLIDE CUTTER the sales of established competing products.

5. Since early 2000, we at AEP have received numerous inquiries from potential customers and distributors from many countries, including the U.S., Canada, South America, Australia, New Zealand, France, Spain, Czech Republic, China, Israel, England Germany and Japan.

6. An important feature highly appreciated by the customers and users is the functioning of the device based on the cling of the plastic wrap to the cutter to enable the plastic wrap to be held in place before, after and during cutting of the plastic wrap.

7. A conventional film cutter such as the Wankow device described in U.S. Patent No. 3,549,066 includes vinyl spots to hold the film from falling back into the box. Wankow uses a conventional serrated knife/blade to cut the film. The conventional cutter serrated blade is used by exerting force by hand to rip, tear and puncture the film against the serrated edge. Wankow claims the vinyl spots help facilitate cutting of the film. However, this statement is incorrect. The vinyl spots of Wankow are on the bottom of the box just above the serrated edge. One must pull the film over the serrated edge and away from the box all together to begin the cutting process. Since the ripping, tearing and puncturing occurs on the opposite side of the serrated edge where a combination of movement and pressure is necessary for the cutting to occur with a serrated edge it is obvious to one of ordinary skill in the art that the vinyl spots play no role in cutting the film. After the film is cut, the vinyl spots have enough holding force to prevent a .0003 piece of film from falling back into the box via static friction. Because the vinyl spots hold an almost weightless piece of film in place with no plausible relation to cutting it is in no way obvious to one of ordinary skill in the art of extrusion to correlate the vinyl spots with the combination of a co-extruded top surface cutting apparatus combined with a blade that is placed

at an angle to where the film is severed. In the SAFETY SLIDE CUTTER, the positioning of the blade demands that the film be completely stationary which is exactly opposite of the force and methodology used with a serrated blade during cutting. In contrast, the film cutter of the present application having rails formed of a material which provides an attraction to plastic wrap has resulted in a device which is extremely easy to handle and functions in a safe and uncomplicated way.

8. It is my opinion that the product can be termed a commercial success, insofar as AEP is concerned and that this is solely and directly related to the claimed features of our device. There has also been a long felt need in the industry for an improved slide cutter which need is shown by competitors now selling slide cutters with the features of the SAFETY SLIDE CUTTER.

9. The commercial success of the SAFETY SLIDE CUTTER was not the result of heavy promotion or advertising, nor consumption by purchasers normally tied to Applicant's or other business events extraneous to the merits of the invention set forth in the claims. AEP has not actively marked the SAFETY SLIDE CUTTER. The SAFETY SLIDE CUTTER has been added to conventional plastic wrap and a conventional box and the commercial success is not tied to the plastic wrap or box used to house the film cutter. There have been no "give aways" of the product defined by the claims, or any other inducements or concessions in selling the product defined by the claims. Instead, the commercial success was as a result of the advantageous physical and economic results attained by the subject matter set forth in the claims of the application, which I have read and understand.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Dated: 12 - 3, 2007

By:

Paul V  
PAUL VECLIANTE